

### **Remarks**

Claims 1-12 and 18, 19, and 21-23, are currently pending in the application. With this Submission, claims 1, 6, 9, 12, 18, 19, and 21, are amended. Upon entry of the current amendments, claims 1-12, 18, 19, and 21-23 remain pending for consideration.

Applicants respectfully request reconsideration and further examination of the application in view of the amendments above and remarks below.

### **Support for Claim Amendments**

Applicants submit that the claim amendments are fully supported by the application as originally filed and do not present new matter.

Support for the amendment of claims 1, 12, and 21, to feature that retarder conditions include a temperature in the range from 32°F to 46°F can be found in the specification at, e.g., page 7, lines 3-5.

Claims 6, 9, 18, 19, and 21, are amended to clarify that the featured range of yeast amount is on a fresh crumbled yeast basis. As the specification explains, a fresh crumbled yeast basis has a moisture content of about 70 percent (see the specification at, e.g., page 8, lines 3-27). So, for example, the 1 to 4 parts by weight of yeast featured in claim 6 is based on an amount of fresh crumbled yeast and should take into account the moisture content if determining the amount yeast only. Although claims 6, 9, 18, 19, and 21, are amended to feature a crumbled yeast basis to clarify the yeast content, Applicants note that, as explained in the specification at page 7, line 30, to page 8, line 2, other yeast ingredients besides crumbled yeast can be used as the yeast in a dough according to the present invention as follows:

Useful yeasts that can contribute to proofing a dough composition at retarder conditions include, for example, fresh crumbled yeast (also called cake yeast or compressed yeast), yeast cream, instant dry yeast, dry active yeast, protected active dry yeast, frozen yeast, and combinations of these.

**Affidavit of David J. Domingues**

A Declaration Under 37 C.F.R. §1.132 (Affidavit) of David J. Domingues is concurrently submitted with this Submission and factually supports Applicants' Response to the claim rejections below.

**Rejection Under 35 U.S.C. §102**

Claims 1-3, 5-12, 18, 19, 21, and 22 stand rejected under 35 U.S.C. §102(b) as being anticipated by Freyn et al. (U.S. Pat. No. 5,451,417).

It is respectfully submitted that this rejection is overcome by amending independent claims 1, 12, and 21, to feature that the dough can be proofed at a temperature in the range from 32°F to 46°F, and by the Affidavit of David J. Domingues which factually supports the conclusion that Freyn et al. do not teach a dough that can proof at a temperature in the range from 32°F to 46°F.

Each of independent claims 1, 12, and 21, features an unproofed, frozen dough that can, after thawing, be proofed at a temperature in the range from 32°F to 46°F. "Proofed" means that the dough increases in volume by 50% or more and has a raw specific volume in the range of from about 1.5 to about 3 cubic centimeters per gram (see the specification at, e.g., page 6, lines 16-24). An unproofed, frozen dough that can, after thawing, proof at a temperature in the range from 32°F to 46°F is significant because such a temperature range is relatively much cooler than conventional proofing temperatures (see the specification at, e.g., page 2, lines 22-31). One advantage of such a dough is that the need to transfer the dough from the cooler temperature to a proof box (or ambient conditions), after thawing the dough, to allow for proofing of the thawed dough can be eliminated (see the specification at, e.g., page 5, lines 11-13). Accordingly, the thawed dough can remain at the cooler temperature and still be proofed. This is particularly desirable when a dough is thawed overnight for use when personnel arrive in the early morning as the proofed dough can simply be removed from cooler temperature (e.g., in a retarder) and ready to bake (see the specification at, e.g., page 5, lines 13-18). Another advantage of such a dough is that the time period required for a normally-yeast-leavened dough to sit for proofing between removal from a retarder and baking or frying, either by sitting in a proof box or by resting at ambient room temperature conditions can be eliminated (see the specification at, e.g.,

page 5, lines 19-22). Again, in the context of a dough that is thawed overnight in a retarder, morning personnel do not need to wait for a thawed dough to proof (after removal from a retarder), but can bake the dough composition at any time, directly from the retarder (see the specification at, e.g., page 5, lines 22-25).

As factually supported by the Affidavit of David J. Domingues (mentioned above), the Freyn et al. reference does not teach an unproofed, frozen dough that can, after thawing, be proofed at a temperature in the range from 32°F to 46°F. As shown in the Affidavit, the Freyn et al. dough did not “proof” as defined in Applicants’ specification at 40°F or 45°F.

Accordingly, it is respectfully requested that the rejection of claims 1-3, 5-12, 18, 19, 21, and 22 under 35 U.S.C. §102(b) as being anticipated by Freyn et al. be withdrawn.

#### **Rejection Under 35 U.S.C. §103**

Claims 4 and 23 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Freyn et al. in view of Moder et al. (U.S. Pat. No. 6,579,554).

This rejection is overcome by amending independent claims 1 and 21 (from which claims 4 and 23 depend, respectively) to feature that the dough can be proofed at a temperature in the range from 32°F to 46°F. As discussed above, the Affidavit of David J. Domingues which factually supports the conclusion that Freyn et al. do not teach a dough that can proof at a temperature in the range from 32°F to 46°F.

Claims 1 and 21 are nonobvious over the Freyn et al. reference because there is no reason or benefit why one of skill in the art would have modified the Freyn et al. dough to proof at a temperature in the range from 32°F to 46°F. The Freyn et al. reference is directed to freezer-to-oven doughs, which are formulated to leaven at oven temperatures directly from frozen conditions, without “thawing and/or proofing” (see Freyn et al. at, e.g., col. 2, lines 16-29, and Examples 1-7).

The Moder et al. reference fails to cure the deficiencies of the Freyn et al. reference with respect to each of claims 1 and 21. Similar to the Freyn et al. reference, the Moder et al. reference is directed to a freezer-to-oven dough composition (see Moder et al. at, e.g., the title). Indeed, Moder et al. was merely cited to for disclosing an encapsulated base (see the Office Action at page 3, paragraph 3, and page 4, first full paragraph).

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Because claims 1 and 21 are patentable over Freyn et al. in view of Moder et al, claims 4 and 23 are likewise patentable.

Accordingly, it is respectfully requested that the rejection of claims 4 and 23 under 35 U.S.C. §103(a) as being unpatentable over Freyn et al. in view of Moder et al. be withdrawn.

### **Conclusion**

In view of the foregoing, it is respectfully submitted that the Application is in condition for allowance, and respectfully requested that the Application be passed to issue. The Examiner is invited to telephone the Applicants' undersigned representative in the event that such communication is deemed to expedite prosecution of this application.

Respectfully Submitted,

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